

THURSDAY, MAY 15, 2003
FORTY-FIRST LEGISLATIVE DAY

CALL TO ORDER

The Senate met at 9:00 a.m., and was called to order by Mr. Speaker Wilder.

PRAYER

The proceedings were opened with prayer by Mary Frances Varallo, a guest of Senator Harper.

PLEDGE OF ALLEGIANCE

Senator Harper led the Senate in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present 32

Senators present were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

COMMUNICATION

May 15, 2003

The Honorable John Wilder
Lieutenant Governor
One Legislative Plaza
Nashville, TN 37243

Dear Lt. Governor Wilder:

I was unavoidably absent from the Senate Chamber on Wednesday and Thursday (May 14th and May 15th) due to tornado damage and flooding to my home.

Thank you for your understanding in this matter.

Sincerely,

/s/ Jerry Cooper

APPROVED: Lieutenant Governor
John S. Wilder

PRESENTATIONS

Senator Trail presented **Senate Joint Resolution No. 202** to Rick Insell and the Shelbyville Central High School girls' basketball team.

Senator Burchett presented **Senate Joint Resolution No. 121** proclaiming songwriting as one of Tennessee's art forms.

INTRODUCTION OF BILLS

The Speaker announced that the following bills were filed for introduction and passed first consideration:

Senate Bill No. 2036 by Senator Miller.

Decatur -- Subject to local approval, rewrites charter. Amends Chapter 83 of the Acts of 1905.

Senate Bill No. 2037 by Senator Beavers.

Clay County -- Subject to local approval, authorizes county legislative body to impose \$25.00 wheel tax on motor-driven vehicles for privilege of using public roads and county highways; excludes motorcycles, motor-driven bicycles and scooters, farm tractors, self-propelled farm machinery and government vehicles.

HOUSE BILL ON FIRST CONSIDERATION

The Speaker announced that the following House Bill was transmitted to the Senate and passed first consideration:

House Bill No. 1772 -- Tobacco, Tobacco Products -- Places additional regulations on cigarette distributors, importers, manufacturers and retail dealers. Amends TCA Title 67, Chapter 4.

SENATE BILLS ON SECOND CONSIDERATION

The Speaker announced that the following bills passed second consideration and were referred to the appropriate committee:

Senate Bill No. 2034 held on desk.

Senate Bill No. 2035 held on desk.

INTRODUCTION OF RESOLUTIONS

The Speaker announced the following resolutions were filed for introduction. Pursuant to Rule 21, the resolutions lie over.

Senate Joint Resolution No. 448 by Senator Southerland.

Memorials, Professional Achievement -- Maxine Humphreys, Radio Personality, 50th Year on the Air.

Senate Joint Resolution No. 449 by Senator Southerland.

Memorials, Interns -- David Pair.

Senate Joint Resolution No. 450 by Senator Beavers.

Memorials, Public Service -- Jimmy Philpott.

Senate Joint Resolution No. 451 by Senator Henry.

Memorials, Recognition -- Archbishop Demetrios.

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Senate Joint Resolution No. 452 by Senator Trail.
Memorials, Recognition -- Foster Care Month.

Senate Joint Resolution No. 453 by Senator Trail.
Memorials, Professional Achievement -- Cynthia A. Jones, National Teachers Hall of Fame.

Senate Resolution No. 89 by Senator Harper.
Memorials, Retirement -- Stephen DuJuan "Bubba" Miller.

RESOLUTIONS LYING OVER

Senate Joint Resolution No. 438 -- Memorials, Academic Achievement -- Leigh Danielle Nunnery, Salutatorian, Camden Central High School.

The Speaker announced that he had referred Senate Joint Resolution No. 438 to Committee on Calendar.

Senate Joint Resolution No. 439 -- Memorials, Interns -- Mary Ann Riddle.

The Speaker announced that he had referred Senate Joint Resolution No. 439 to Committee on Calendar.

Senate Joint Resolution No. 440 -- Memorials, Recognition -- Lynn Parker, Outstanding Community Service.

The Speaker announced that he had referred Senate Joint Resolution No. 440 to Committee on Calendar.

Senate Joint Resolution No. 441 -- Memorials, Academic Achievement -- John William Carruth, Valedictorian, Camden Central High School.

The Speaker announced that he had referred Senate Joint Resolution No. 441 to Committee on Calendar.

Senate Joint Resolution No. 442 -- Memorials, Academic Achievement -- Whitney Howerton, Valedictorian, Lake County High School.

The Speaker announced that he had referred Senate Joint Resolution No. 442 to Committee on Calendar.

Senate Joint Resolution No. 443 -- Memorials, Academic Achievement -- Jamie Pierce, Salutatorian, Lake County High School.

The Speaker announced that he had referred Senate Joint Resolution No. 443 to Committee on Calendar.

Senate Joint Resolution No. 444 -- Memorials, Personal Occasion -- Lucille Jones Gardner, 100th birthday.

The Speaker announced that he had referred Senate Joint Resolution No. 444 to Committee on Calendar.

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Senate Joint Resolution No. 445 -- Memorials, Academic Achievement -- JoeAnna Sanders, Valedictorian, Faith Missionary Academy.

The Speaker announced that he had referred Senate Joint Resolution No. 445 to Committee on Calendar.

Senate Joint Resolution No. 446 -- Memorials, Academic Achievement -- Zack Meeks, Salutatorian, Faith Missionary Academy.

The Speaker announced that he had referred Senate Joint Resolution No. 446 to Committee on Calendar.

Senate Joint Resolution No. 447 -- Memorials, Professional Achievement -- James H. Quillen College of Medicine.

The Speaker announced that he had referred Senate Joint Resolution No. 447 to Committee on Calendar.

Senate Resolution No. 87 -- Memorials, Retirement -- Dr. Tom Campbell.

The Speaker announced that he had referred Senate Resolution No. 87 to Committee on Calendar.

MOTION

Senator Southerland moved that the rules be suspended for the immediate consideration of **Senate Joint Resolution No. 448**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 448 -- Memorials, Professional Achievement -- Maxine Humphreys, Radio Personality, 50th Year on the Air.

On motion of Senator Southerland, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 448** was adopted.

A motion to reconsider was tabled.

CONSENT CALENDAR

House Joint Resolution No. 544 -- Memorials, Interns -- Troy Senik.

House Joint Resolution No. 545 -- Memorials, Personal Occasion -- Bobby and Mary Esch, 50th anniversary.

House Joint Resolution No. 546 -- Memorials, Professional Achievement -- Dr. Joe T. Walker.

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House Joint Resolution No. 547 -- Memorials, Academic Achievement -- University of Tennessee College of Law's Black Law Student Association.

House Joint Resolution No. 549 -- Memorials, Personal Occasion -- Mr. and Mrs. William Greenlee, 60th wedding anniversary.

House Joint Resolution No. 550 -- Memorials, Personal Occasion -- Mr. and Mrs. Clyde Cates, 61st anniversary.

House Joint Resolution No. 551 -- Memorials, Public Service -- Eddie Rowe, President of Tennessee Pharmacists Association.

House Joint Resolution No. 552 -- Memorials, Personal Achievement -- James West, Eagle Scout.

House Joint Resolution No. 554 -- Memorials, Academic Achievement -- Amy L. England, Valedictorian, Union County High School.

House Joint Resolution No. 555 -- Memorials, Academic Achievement -- Heather Paige Jessee, Valedictorian, Union County High School.

House Joint Resolution No. 556 -- Memorials, Academic Achievement -- Holly Nicole Jessee, Valedictorian, Union County High School.

House Joint Resolution No. 557 -- Memorials, Academic Achievement -- Justin Mitchell, Valedictorian, Union County High School.

House Joint Resolution No. 558 -- Memorials, Academic Achievement -- James Eric Russell, Valedictorian, Union County High School.

House Joint Resolution No. 559 -- Memorials, Academic Achievement -- Clayton Humphrey, Salutatorian, Union County High School.

Senate Joint Resolution No. 433 -- Memorials, Congratulations -- Future Problem Solving Program team from Wilson County.

Senate Joint Resolution No. 434 -- Memorials, Death -- Dale Dyke.

Senate Joint Resolution No. 435 -- Memorials, Interns -- Lisa Boaz.

Senate Joint Resolution No. 436 -- Memorials, Recognition -- James H. Quillen Veterans Affairs Medical Center, 100th anniversary.

Senate Resolution No. 85 -- Memorials, Interns -- Willie Stokes, Jr.

Senate Resolution No. 86 -- Memorials, Professional Achievement -- Dr. Deborah DiStefano.

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Senator Crowe moved that all Senate Joint Resolutions and Senate Resolutions be adopted; and all House Joint Resolutions be concurred in, which motion prevailed by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

CALENDAR

Senator Crutchfield moved that **Senate Bill No. 38** be moved three places down on the calendar for today, which motion prevailed.

Senate Bill No. 60 -- Highway Signs -- Nossi College of Art, various locations in Davidson County.

On motion, Senate Bill No. 60 was made to conform with **House Bill No. 229**.

On motion, House Bill No. 229, on same subject, was substituted for Senate Bill No. 60.

Senator Henry moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 229** passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senate Bill No. 61 -- Safety -- Clarifies that nothing in child safety belt law prevents mother from attending to child's other physiological needs; restores language removed from child restraint law in 102nd General Assembly. Amends TCA Section 55-9-602.

Senator Haynes moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-9-602, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a)(1) Any person transporting any child, under one (1) year of age, or any child, weighing twenty (20) pounds or less, in a motor vehicle upon a road, street or highway of Tennessee is responsible for the protection of the child and properly using a child passenger restraint system in a rear facing position, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(2) Notwithstanding the provisions of § 55-9-603, any person transporting any child, one (1) through three (3) years of age weighing greater than twenty (20) pounds, in a motor vehicle upon a road, street or highway of Tennessee is responsible for the protection of the child and properly using a child passenger restraint system in a forward-facing position, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(3) Notwithstanding the provisions of § 55-9-603, any person transporting any child, four (4) through eight (8) years of age and measuring less than five feet (5') in height, in a passenger motor vehicle upon a road, street or highway of Tennessee is responsible for the protection of the child and properly using a belt positioning booster seat system, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(4)(A) If a child is not capable of being safely transported in a conventional child passenger restraint system as provided for in this subsection, a specially modified, professionally manufactured restraint system meeting the intent of this subsection shall be in use; provided that the provisions of this subdivision shall not be satisfied by use of the vehicle's standard lap or shoulder safety belts independent of any other child passenger restraint system. A motor vehicle operator who is transporting a child in a specially modified, professionally manufactured child passenger restraint system shall possess a copy of the physician's signed prescription that authorizes the professional manufacture of the specially modified child passenger restraint system.

(B) A person shall not be charged with a violation of this subsection if such person presents a copy of the physician's prescription in compliance with the provisions of this subdivision to the arresting officer at the time of the alleged violation.

(C) A person charged with a violation of this section may, on or before the court date, submit a copy of the physician's prescription and evidence of possession of a specially modified, professionally manufactured child passenger restraint system to the court. If the court is satisfied that compliance was in effect at the time of the violation, the charge for violating the provisions of this section may be dismissed.

SECTION 2. Tennessee Code Annotated, Section 55-9-602(g), is amended by deleting subdivision (1) in its entirety and by substituting instead the following:

(1)(A) Notwithstanding the provisions of § 55-9-603, any person transporting any child, nine (9) through twelve (12) years of age, or any child through twelve (12) years of age, measuring five feet (5') or more in height, in a passenger motor vehicle upon a road, street or highway of Tennessee is responsible for the protection of the child and properly using a seat belt system meeting federal motor vehicle safety standards. It is recommended that any such child be placed in the rear seat if available.

(B) Notwithstanding the provisions of § 55-9-603, any person transporting any child, thirteen (13) through fifteen (15) years of age, in a passenger motor vehicle upon a road, street or highway of Tennessee is responsible for the protection of the child and properly using a passenger restraint system, including safety belts, meeting federal motor vehicle safety standards.

SECTION 3. Tennessee Code Annotated, Section 55-9-602(g), is amended by deleting subdivision (2) in its entirety and by substituting instead the following:

(2) A person charged with a violation of this subsection may, in lieu of appearance in court, submit a fine of fifty dollars (\$50.00) to the clerk of the court which has jurisdiction of such offense within the county in which the offense charged is alleged to have been committed.

SECTION 4. Tennessee Code Annotated, Section 55-9-602(g), is amended by deleting subdivision (4)(A) in its entirety and by substituting instead the following:

(4)(A) Notwithstanding any provision of subsection (f) to the contrary, the revenue generated by ten dollars (\$10.00) of the fifty dollar (\$50.00) fine under subdivision (g)(2) for a person's first conviction under this subsection, shall be deposited in the state general fund without being designated for any specific purpose. The remaining forty dollars (\$40.00) of such fifty dollar (\$50.00) fine for a person's first conviction under this subsection shall be deposited to the child safety fund in accordance with subsection (f).

SECTION 5. Tennessee Code Annotated, Section 55-9-602(g), is amended by deleting subdivision (5) in its entirety.

SECTION 6. Tennessee Code Annotated, Section 55-9-602(g), is amended by adding the following language to the end of subdivision (6):

If the driver is neither a parent nor legal guardian of the child and the child's parent or legal guardian is present in the vehicle, the parent or legal guardian is responsible for ensuring that the provisions of this subsection are complied with. If no parent or legal guardian is present at the time of the violation, the driver is solely responsible for compliance with this subsection.

SECTION 7. Tennessee Code Annotated, Section 55-9-602, is amended by adding the following language as new, appropriately designated subsections:

(h) As used in this section, unless specified otherwise, "passenger motor vehicle" means any motor vehicle with a manufacturer's gross vehicle weight rating of ten thousand pounds (10,000 lbs.) or less, that is not used as a public or livery conveyance for passengers. "Passenger motor vehicle" does not apply to motor vehicles which are not required by federal law to be equipped with safety belts.

(i) A person who has successfully met the minimum required training standards for installation of child restraint devices established by the national highway traffic safety administration of the United States Department of Transportation, who in good faith installs or inspects the installation of a child restraint device shall not be liable for any damages resulting from any act or omission related to such installation or inspection unless such act or omission was the result of the person's gross negligence or willful misconduct.

(j) Notwithstanding any provisions of this part to the contrary, for any child transported by child care agencies licensed by the Department of Human Services pursuant to §§ 71-3-501 et seq. and transported pursuant to the rules and regulations of such department, such rules and regulations shall remain effective until the department amends such rules and regulations; provided that the department shall either promulgate rules consistent with the provisions of this part or promulgate rules exceeding, based on applicable federal regulations or standards, the provisions of this part no later than January 1, 2007.

SECTION 8. Tennessee Code Annotated, Section 55-9-602(f), is amended by deleting subdivision (7) in its entirety and by substituting instead the following:

(7) The Department of Health is authorized, pursuant to duly promulgated rules and regulations, to determine equitable distribution of the moneys in the fund to those entities that are best suited for child passenger safety system distribution. Funds distributed pursuant to the provisions of this section shall only be used for the purchase of child passenger safety systems to be loaned or given to the parent or guardian.

SECTION 9. This act shall take effect July 1, 2004, the public welfare requiring it.

On motion, the amendment was adopted.

Senator Haynes moved that **Senate Bill No. 61**, as amended, be moved five places down on the calendar for today, which motion prevailed.

Senate Bill No. 63 -- Safety -- Transfers approval of training for public safety dispatchers from TEMA to emergency communications board. Amends TCA Title 58, Chapter 2, Part 2.

Senator Haynes moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 58-2-201, is amended by deleting the section in its entirety.

SECTION 2. (a) Regardless of agency or governmental jurisdiction, each 911 or public safety dispatcher that receives an initial 911 call from the public is subject to the training and course of study requirements established by the emergency communications board established by §7-86-302.

(b) The emergency communications board established by §7-86-302 is the sole authority to implement this section.

SECTION 3. The Tennessee Code Commission is directed to transfer the provisions of Section 58-2-202 to Tennessee Code Annotated, Title 7, Chapter 86, Part 2.

SECTION 4. This act shall take effect July 1, 2003, the public welfare requiring it.

On motion, the amendment was adopted.

Thereupon, **Senate Bill No. 63**, as amended, passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senate Bill No. 38 -- Vending Machines -- Exempts vending machines operated for benefit of charitable entity from sales tax; imposes privilege tax on such vending machines. Amends TCA Title 67, Chapter 4, Part 5.

Senator Henry moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 4, Part 5, is amended by adding the following new, appropriately designated section:

67-4-506. (a)(1) Each person operating any vending machine for the benefit of a charitable non-profit organization, by which merchandise of the market value of the coin deposited not exceeding twenty-five (25) cents is sold or delivered to customers, shall have the privilege and option of registration with the Department of Revenue, reporting gross receipts vended through such machines, and paying tax thereon, in lieu of sales tax, at the rate of one and

one-half percent (1.5%) of the gross receipts from the machines (except that the percentage shall be two and one-half percent (2.5%) of the gross receipts of all tobacco items from the machines) in the same manner, with the same privileges and exemptions, and under the same regulation and administration as the tax codified in Section 67-4-402.

(2) For purposes of this section, "vending machine" means any machine built such that only a fixed, predetermined price can be paid for the item dispensed by such machine, the machine cannot return or make change, and the machine cannot be adjusted, mechanically, electronically or otherwise, to change the price charged for the item.

(3) For purposes of this section, "charitable non-profit organization" shall not include any organized labor organization.

(b) To comply with the above option, the name and address of the owner, and, if different from the owner, the name and address of the charitable non-profit organization must appear upon each vending machine, and each vending machine must have a permanent registration on forms provided by the department, at a cost for which the department may charge one dollar (\$1.00) each, plus a fee of two dollars (\$2.00) for each individual company so permanently registering.

(c) Any person, firm or corporation engaged in this business shall immediately notify the department of its options to pay under this chapter, and, failing to notify the department, shall pay sales tax as provided by law.

SECTION 2. Tennessee Code Annotated, Section 67-6-102(a)(25)(I), is amended by adding the following new language at the end of that item:

provided, further that "retail sale" or "sale at retail" shall not include vending machine purchases taxed under Section 67-4-506;

SECTION 3. This act shall take effect July 1, 2003, the public welfare requiring it.

On motion, the amendment was adopted.

Thereupon, **Senate Bill No. 38**, as amended, passed its third and final consideration by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Ford, Fowler, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

Senate Bill No. 168 -- Highway Signs -- "Harrison Bay Parkway", S.R. 58 in Hamilton County.

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On motion, Senate Bill No. 168 was made to conform with **House Bill No. 276**.

On motion, House Bill No. 276, on same subject, was substituted for Senate Bill No. 168.

Senator Henry moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 276** passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senate Bill No. 263 -- Hospitals and Health Care Facilities -- Requires Department of Health to establish data collection system on sepsis. Amends TCA Title 49; Title 63 and Title 68.

Senate Bill No. 263 passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senator Crutchfield moved that **Senate Bill No. 422** be placed on the calendar for Monday, May 19, 2003, which motion prevailed.

Senate Bill No. 438 -- Economic and Community Development -- Enacts "Inner-City Redevelopment Act of 2003". Amends TCA Title 7, Chapter 84.

On motion, Senate Bill No. 438 was made to conform with **House Bill No. 566**.

On motion, House Bill No. 566, on same subject, was substituted for Senate Bill No. 438.

Thereupon, **House Bill No. 566** passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby,

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Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senator Haynes moved that **Senate Bill No. 61**, as amended, be moved five places down on the calendar for today, which motion prevailed.

Senate Bill No. 626 -- Regional Authorities and Special Districts -- Revises regional transportation authority. Amends TCA Title 64, Chapter 8, Part 1.

Senator Haynes moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting from the amendatory Section 64-8-104(b)(5) in Section 6 of the printed bill the language "Employee personnel or contract with public or private entities" and by substituting instead the language "Employ personnel or contract with public or private entities".

On motion, the amendment was adopted.

Thereupon, **Senate Bill No. 626**, as amended, passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senator Crutchfield moved that **Senate Bill No. 642** be placed on the calendar for Monday, May 19, 2003, which motion prevailed.

Senate Bill No. 692 -- Appropriations -- Allows reserve for revenue fluctuations to be used to meet obligations created under insurance policies obtained for use and benefit of state agencies, departments or divisions, subject to specific provisions of General Appropriations Act. Amends Tennessee Code Annotated, Section 9-14-211; Title 9, Chapter 8; and Title 12, Chapter 3, Part 9.

On motion, Senate Bill No. 692 was made to conform with **House Bill No. 1994**.

On motion, House Bill No. 1994, on same subject, was substituted for Senate Bill No. 692.

Senator Henry moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1994** passed its third and final consideration by the following vote:

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Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senate Bill No. 728 -- Naming and Designating -- "William J. Tangye Codes Prop House", Tennessee Fire Service and Code Enforcement Academy.

On motion, Senate Bill No. 728 was made to conform with **House Bill No. 1635**.

On motion, House Bill No. 1635, on same subject, was substituted for Senate Bill No. 728.

Senator Henry moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1635** passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senate Bill No. 733 -- Municipal Government -- Authorizes two or more municipal governments to create jointly corridor of central business improvement districts. Amends TCA Title 7, Chapter 84.

On motion, Senate Bill No. 733 was made to conform with **House Bill No. 647**.

On motion, House Bill No. 647, on same subject, was substituted for Senate Bill No. 733.

Thereupon, **House Bill No. 647** passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senator Haynes moved that **Senate Bill No. 61**, as amended, be moved ten places down on the calendar for today, which motion prevailed.

Senator Crutchfield moved that **Senate Bill No. 810** be placed on calendar for Monday, May 19, 2003, which motion prevailed.

Senate Bill No. 885 -- Regional Authorities and Special Districts -- Adds counties of Benton, Decatur and Hardin to West Tennessee river basin authority; clarifies that term for authority's board members appointed by Governor is six years or until successor appointed. Amends TCA Title 64, Chapter 1, Part 11.

On motion, Senate Bill No. 885 was made to conform with **House Bill No. 1032**.

On motion, House Bill No. 1032, on same subject, was substituted for Senate Bill No. 885.

Senator Henry moved that Amendment No. 1 be withdrawn, which motion prevailed.

Senator McLeary declared Rule 13 on **House Bill No. 1032**.

Thereupon, **House Bill No. 1032** passed its third and final consideration by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

Senate Bill No. 926 -- Child Custody and Support -- Excuses parent from strict compliance with terms of visitation order under certain limited circumstances. Amends TCA Title 36, Chapter 6.

On motion, Senate Bill No. 926 was made to conform with **House Bill No. 859**.

On motion, House Bill No. 859, on same subject, was substituted for Senate Bill No. 926.

Senator Person moved that Amendment No. 1 be withdrawn, which motion prevailed.

Senator Crutchfield moved that **House Bill No. 859** be moved five places down on the calendar for today, which motion prevailed.

Senate Bill No. 1149 -- Emergency Communications Districts -- Provides for payment of emergency communications fee by certain mobile radio service providers or retailers. Amends TCA Section 7-86-108.

On motion, Senate Bill No. 1149 was made to conform with **House Bill No. 1473**.

On motion, House Bill No. 1473, on same subject, was substituted for Senate Bill No. 1149.

Senator Haynes moved that Amendment No. 1 be withdrawn, which motion prevailed.

Senator Henry moved that Amendment No. 2 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1473** passed its third and final consideration by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

Senate Bill No. 1197 -- Pensions and Retirement Benefits -- Allows employees of Professional Educators of Tennessee to become members of TCRS. Amends TCA Section 8-35-118.

On motion, Senate Bill No. 1197 was made to conform with **House Bill No. 778**.

On motion, House Bill No. 778, on same subject, was substituted for Senate Bill No. 1197.

Thereupon, **House Bill No. 778** passed its third and final consideration by the following vote:

Ayes	28
Noes	1

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--28.

Senator voting no was: Cohen--1.

A motion to reconsider was tabled.

Senate Bill No. 1369 -- Salaries and Benefits -- Grants cost-of-living salary increase to all state employees annually; such increase to be equal to increase in consumer price index; gives each career service employee annual experience step increase on annual date of employment equal to 3 1/2 percent of employee's salary. Amends TCA Title 8, Chapter 23.

On motion, Senate Bill No. 1369 was made to conform with **House Bill No. 1649**.

On motion, House Bill No. 1649, on same subject, was substituted for Senate Bill No. 1369.

Senator Henry moved that Amendment No. 1 be withdrawn, which motion prevailed.

Senator Henry moved that Amendment No. 2 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1649** passed its third and final consideration by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

Senate Bill No. 1372 -- Taxes, Hotel/Motel -- Revises criminal penalty provisions for delinquent hotel/motel taxes imposed by home rule municipalities under general law; clarifies that authorized collector may also pursue any civil remedy available for collecting taxes, including distress warrants and seizure of assets. Amends TCA Title 67, Chapter 4, Part 14.

Senator Henry moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting the language "and each room" from amendatory subdivision (3) of Section 1.

On motion, the amendment was adopted.

Thereupon, **Senate Bill No. 1372**, as amended, passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senate Bill No. 1374 -- Municipal Government -- Permits municipalities in counties having population in excess of 100,000, instead of only Davidson and Shelby counties, to conduct criminal conviction record investigation of applicants to transport members of public through TBI and FBI as well as locally. Amends TCA Section 6-54-128.

On motion, Senate Bill No. 1374 was made to conform with **House Bill No. 1784**.

On motion, House Bill No. 1784, on same subject, was substituted for Senate Bill No. 1374.

Thereupon, **House Bill No. 1784** passed its third and final consideration by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

Senate Bill No. 1450 -- Taxes, Ad Valorem -- Permits deferral of refund of property taxes, if refund significantly affects approved county budget. Amends TCA Section 67-5-1512 and Title 67, Chapter 5, Part 18.

On motion, Senate Bill No. 1450 was made to conform with **House Bill No. 1030**.

On motion, House Bill No. 1030, on same subject, was substituted for Senate Bill No. 1450.

Senator Ford moved to amend as follows:

AMENDMENT NO. 1

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. This act shall not apply to refunds presently due any taxpayer.

On motion, the amendment was adopted.

Senator Henry moved to amend as follows:

AMENDMENT NO. 2

AMEND by adding the following sentence at the end of the amendatory language of Section 1 of the printed bill:

Notwithstanding other provisions of the law, the interest rate on a deferred refund shall increase two (2) points from the date of the deferral sixty (60) days after the board of equalization decision is rendered until the refund is finally paid.

On motion, the amendment was adopted.

Senator Clabough moved that **House Bill No. 1030**, as amended, be placed on calendar for Monday, May 19, 2003, which motion prevailed.

MR. SPEAKER WILDER RELINQUISHES CHAIR

Mr. Speaker Wilder relinquished the Chair to Senator Haynes as Speaker pro tempore.

FURTHER ACTION ON HOUSE BILL NO. 859

Senator Person moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting Section 1 in its entirety and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 36-6-404(a), is amended by adding the following language as a new, appropriately designated subdivision:

(9) Specify that if the driver license of a parent is currently expired, canceled, suspended or revoked or if the parent does not possess a valid driver license for any other reason, the parent shall make acceptable transportation arrangements as may be necessary to protect and ensure the health, safety and welfare of the child when such child is in the custody of such parent.

Pursuant to Rule 39(3), Amendment No. 2 was adopted by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--29.

Thereupon, **House Bill No. 859**, as amended, passed its third and final consideration by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--28.

A motion to reconsider was tabled.

Senate Bill No. 1530 -- Public Funds and Financing -- Requires state funding board to establish policies and procedures for investment of bond proceeds in guaranteed investment contracts. Amends TCA Titles 5, 6, and 9.

On motion, Senate Bill No. 1530 was made to conform with **House Bill No. 1467**.

On motion, House Bill No. 1467, on same subject, was substituted for Senate Bill No. 1530.

Senator Henry moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1467** passed its third and final consideration by the following vote:

THURSDAY, MAY 15, 2003 -- 41ST LEGISLATIVE DAY

Ayes 30
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--30.

A motion to reconsider was tabled.

Senator Haynes moved that **Senate Bill No. 61**, as amended, be moved to the heel of the calendar for today, which motion prevailed.

Senator Crutchfield moved that **Senate Bill No. 1583** be placed on the calendar for Monday, May 19, 2003, which motion prevailed.

Senate Bill No. 1595 -- Taxes, Sales -- Reduces from 90 to 60 days period in which dealer can be reimbursed on refunded item for sales tax collected but not yet remitted to commissioner. Amends TCA Title 67.

On motion, Senate Bill No. 1595 was made to conform with **House Bill No. 1361**.

On motion, House Bill No. 1361, on same subject, was substituted for Senate Bill No. 1595.

Senator Henry moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1361** passed its third and final consideration by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

Senate Bill No. 1647 -- Sunset Laws -- State textbook commission, June 30, 2009. Amends TCA Title 4, Chapter 29 and Title 49, Chapter 6.

Senate Bill No. 1647 passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senate Bill No. 1742 -- Private Investigators -- Exempts from licensing and regulation requirements as private investigator, agent of attorney performing duties relating to attorney's practice of law who is acting within scope of agency for attorney and at attorney's direction. Amends TCA Title 62, Chapter 26, Part 2.

Senator Person moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 62-26-223(b)(3)(A), is amended by adding the following language as a new, appropriately designated item:

(iv) The provisions of this part shall not apply to any student intern from any accredited Tennessee college who is working as an intern in a public defender's or district attorney's program, who is directly supervised by an attorney at law in such public defender's or district attorney's office, who is not compensated for his or her services and whose services are not charged to the public.

SECTION 2. This act shall take effect July 1, 2003, the public welfare requiring it.

On motion, the amendment was adopted.

Thereupon, **Senate Bill No. 1742**, as amended, passed its third and final consideration by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

Senate Bill No. 1773 -- Pensions and Retirement Benefits -- Makes entity administering program under federal Workforce Investment Act of 1998 eligible for participation in Tennessee consolidated retirement system. Amends TCA Title 8, Chapter 35, Part 2.

On motion, Senate Bill No. 1773 was made to conform with **House Bill No. 1706**.

On motion, House Bill No. 1706, on same subject, was substituted for Senate Bill No. 1773.

Thereupon, **House Bill No. 1706** passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senate Bill No. 1806 -- Tobacco, Tobacco Products -- Places additional regulations on cigarette distributors, importers, manufacturers and retail dealers. Amends TCA Title 67, Chapter 4.

On motion, Senate Bill No. 1806 was made to conform with **House Bill No. 1772**.

On motion, House Bill No. 1772, on same subject, was substituted for Senate Bill No. 1806.

Senator Clabough moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding Sections 2 through 7 of this act as a new, appropriately designated part.

SECTION 2. As used in this part:

(a) "Brand Family" means all styles of Cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100s," and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of Cigarettes.

(b) "Cigarette" has the same meaning as in T.C.A. § 47-31-102(4).

(c) "Commissioner" means the Commissioner of the Tennessee Department of Revenue.

(d) "Licensed Agent" means a person that is authorized to affix tax stamps to packages or other containers or Cigarettes under T.C.A. § 67-4-1006 or any person that is required to pay the tobacco tax imposed pursuant to T.C.A. § 67-4-1002.

(e) "Master Settlement Agreement" has the same meaning as in T.C.A. § 47-31-102(5).

(f) "Non-participating Manufacturer" means any Tobacco Product Manufacturer that is not a Participating Manufacturer.

(g) "Participating Manufacturer" has the meaning given that term in Section II(ji) of the Master Settlement Agreement and all amendments thereto.

(h) "Qualified Escrow Fund" has the same meaning as that term is defined in T.C.A. § 47-31-102(6).

(i) "Tobacco Product Manufacturer" has the same meaning as that term is defined in T.C.A. § 47-31-102(9).

(j) "Units Sold" has the same meaning as that term is defined in T.C.A. § 47-31-102(10).

SECTION 3. (a) Every Tobacco Product Manufacturer whose Cigarettes are sold in this state, whether directly or through a distributor, retailer or similar intermediary or intermediaries, shall execute and deliver on a form prescribed by the Commissioner a certification to the Commissioner and Attorney General, no later than the thirtieth day of April each year, certifying under penalty of perjury that, as of the date of such certification, such Tobacco Product Manufacturer either: is a Participating Manufacturer; or is in full compliance with T.C.A. § 47-31-103.

(1) A Participating Manufacturer shall include in its certification a list of its Brand Families. The Participating Manufacturer shall update such list thirty calendar days prior to any addition to or modification of its Brand Families by executing and delivering a supplemental certification to the Attorney General and Commissioner.

(2) A Non-Participating Manufacturer shall include in its certification (i) a list of all of its Brand Families and the number of Units Sold for each Brand Family that were sold in the state during the preceding calendar year, (ii) a list of all of its Brand Families that have been sold in the state at any time during the current calendar year, (iii) indicating, by an asterisk, any Brand Family sold in the state during the preceding calendar year that is no longer being sold in the state as of the date of such certification, and (iv) identifying by name and address any other manufacturer of such Brand Families in the preceding or current calendar year. The Non-Participating Manufacturer shall update such list thirty calendar days prior to any addition to or modification of its Brand Families by executing and delivering a supplemental certification to the Attorney General and Commissioner.

(3) In the case of a Non-Participating Manufacturer, such certification shall further certify:

(A) That such Non-Participating Manufacturer is registered to do business in the state or has appointed a resident agent for service of process and provided notice thereof as required by Section 4.

(B) That such Non-Participating Manufacturer (i) has established and continues to maintain a Qualified Escrow Fund, and (ii) has executed a qualified escrow agreement that has been reviewed and approved by the Attorney General and that governs the Qualified Escrow Fund.

(C) That such Non-Participating Manufacturer is in full compliance with T.C.A. § 47-31-101 et seq. and this Act, and any regulations promulgated pursuant thereto.

(D)(i) the name, address and telephone number of the financial institution where the Non-Participating Manufacturer has established such Qualified Escrow Fund required pursuant to T.C.A. § 47-31-103 and all regulations promulgated thereto;

(ii) the account number of such Qualified Escrow Fund and any sub-account number for Tennessee;

(iii) the amount such Non-Participating Manufacturer placed in such fund for Cigarettes sold in the state during the preceding calendar year, the date and amount of each such deposit, and such evidence or verification as may be deemed necessary by the Attorney General to confirm the foregoing; and

(iv) the amount and date of any withdrawal or transfer of funds the Non-Participating Manufacturer made at any time from such fund or from any other Qualified Escrow Fund into which it ever made escrow payments pursuant to T.C.A. § 47-31-103 and all regulations promulgated thereto.

(4) A Tobacco Product Manufacturer may not include a Brand Family in its certification unless:

(i) in the case of a Participating Manufacturer, said Participating Manufacturer affirms that the Brand Family is deemed to be its Cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, in the volume and shares determined pursuant to the Master Settlement Agreement; and

(ii) in the case of a Non-Participating Manufacturer, said Non-Participating Manufacturer affirms that the Brand Family is deemed to be its Cigarettes for purposes of T.C.A. § 47-31-103. Nothing in this section shall be construed as limiting or otherwise affecting the state's right to maintain that a Brand Family constitutes Cigarettes of a different Tobacco Product Manufacturer for purposes of calculating payments under the Master Settlement Agreement or for purposes of T.C.A. § 47-31-103.

(5) Tobacco Product Manufacturers shall maintain all invoices and documentation of sales and other such information relied upon for such certification for a period of five years, unless otherwise required by law to maintain them for a greater period of time.

(b) Not later than May 31, 2003 the Commissioner shall develop and make available for public inspection a directory listing all Tobacco Product Manufacturers that have provided current and accurate certifications conforming to the requirements

of subsection 3(a) and all Brand Families that are listed in such certifications (the "Directory"), except as noted below.

(1) The Commissioner shall not include or retain in such Directory the name or Brand Families of any Non-Participating Manufacturer that has failed to provide the required certification or whose certification the Commissioner determines is not in compliance with subsections 3(a)(2) and (3), unless the Commissioner has determined that such violation has been cured to the satisfaction of the Commissioner.

(2) Neither a Tobacco Product Manufacturer nor Brand Family shall be included or retained in the Directory if the Commissioner concludes, in the case of a Non-Participating Manufacturer, that (i) any escrow payment required pursuant to T.C.A. § 47-31-103 for any period for any Brand Family, whether or not listed by such Non-Participating Manufacturer, has not been fully paid into a Qualified Escrow Fund governed by a qualified escrow agreement that has been approved by the Attorney General, or (ii) any outstanding final judgment, including interest thereon, for a violation of T.C.A. § 47-31-103 has not been fully satisfied for such Brand Family or such manufacturer.

(3) The Commissioner shall update the Directory as necessary in order to correct mistakes and to add or remove a Tobacco Product Manufacturer or Brand Family to keep the Directory in conformity with the requirements of this Act.

(4) Every Licensed Agent shall provide and update as necessary an electronic mail address to the Commissioner for the purpose of receiving any notifications as may be required by this Act.

(c) It shall be unlawful for any person (1) to affix a stamp to a package or other container of Cigarettes of a Tobacco Product Manufacturer or Brand Family not included in the Directory, (2) to sell, offer, or possess for sale, in this state, or import for personal consumption in this state, Cigarettes of a Tobacco Product Manufacturer or Brand Family not included in the Directory.

SECTION 4. (a) Any non-resident or foreign Non-Participating Manufacturer that has not registered to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its Brand Families included or retained in the Directory, appoint and continually engage without interruption the services of an agent in this state to act as an agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of the Act and T.C.A. § 47-31-101 et seq., may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the Non-Participating Manufacturer. The Non-Participating Manufacturer shall provide the name, address, phone number and proof of the appointment and availability of such agent to and to the satisfaction of the Commissioner and Attorney General.

(b) The Non-Participating Manufacturer shall provide notice to the Commissioner and Attorney General thirty calendar days prior to termination of the authority of an agent and shall further provide proof to the satisfaction of the Attorney

General of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment. In the event an agent terminates an agency appointment, the Non-Participating Manufacturer shall notify the Commissioner and Attorney General of said termination within five calendar days and shall include proof to the satisfaction of the Attorney General of the appointment of a new agent.

(c) Any Non-Participating Manufacturer whose Cigarettes are sold in this state, who has not appointed and engaged an agent as herein required, shall be deemed to have appointed the Secretary of State as such agent and may be proceeded against in courts of this state by service of process upon the Secretary of State; provided, however, that the appointment of the Secretary of State as such agent shall not satisfy the condition precedent for having the Brand Families of the Non-Participating Manufacturer included or retained in the Directory.

SECTION 5. (a) Not later than 20 calendar days after the end of each calendar month, each Licensed Agent shall submit such information as the Commissioner requires to facilitate compliance with this Act, including, but not limited to, a list by Brand Family of the total number of Cigarettes, or, in the case of roll your own, the equivalent stick count, for which the Licensed Agent affixed stamps during the previous calendar month or otherwise paid the tax due for such Cigarettes. The Licensed Agent shall maintain, and make available to the Commissioner, all invoices and documentation of sales of all Non-Participating Manufacturer Cigarettes and any other information relied upon in reporting to the Commissioner for a period of 5 years.

(b) The Commissioner is authorized to disclose to the Attorney General any information received under this Act and requested by the Attorney General for purposes of determining compliance with and enforcing the provisions of this Act. The Commissioner and Attorney General shall share with each other the information received under this Act, and may share such information with other federal, state or local agencies only for purposes of enforcement of this Act, T.C.A. § 47-31-101 et seq., or corresponding laws of other states.

(c) The Attorney General may require at any time from the Non-Participating Manufacturer proof, from the financial institution in which such Manufacturer has established a Qualified Escrow Fund for the purpose of compliance with T.C.A. § 47-31-103, of the amount of money in such fund, exclusive of interest, the amount and date of each deposit to such fund, and the amount and date of each withdrawal from such fund.

(d) In addition to the information required to be submitted pursuant to Sections 3 or 5, the Commissioner may require a Licensed Agent or Tobacco Product Manufacturer to submit any additional information including, but not limited to, samples of the packaging or labeling of each Brand Family, as is necessary to enable the Commissioner to determine whether a Tobacco Product Manufacturer is in compliance with this Act.

SECTION 6. (a) In addition to or in lieu of any other civil or criminal remedy provided by law, if the Commissioner has reasonable grounds to believe that a Licensed Agent or any other person has violated subsection 3(c) or any regulation adopted pursuant to this Act, the Commissioner may revoke or suspend the license of the Licensed

Agent in the manner provided by T.C.A. § 67-4-1016 and in accordance with the provisions of the Uniform Administrative Procedures Act, T.C.A. § 45-101 et seq. Each stamp affixed and each sale or offer to sell Cigarettes in violation of subsection 3(c) shall constitute a separate violation. For each violation hereof, the Commissioner may also impose a civil penalty in an amount not to exceed the greater of 500% of the retail value of the Cigarettes or \$5,000 if the Commissioner has reasonable grounds to believe that a violation of subsection 3(c) or any regulations adopted pursuant thereto has occurred. Such penalty shall be imposed in the manner provided by T.C.A. § 67-4-1015 and in accordance with the provisions of the Uniform Administrative Procedures Act, T.C.A. § 45-101 et seq. In the event of a conflict between the provisions of T.C.A. 67-4-1015 or 67-4-1016 and the Uniform Administrative Procedures Act, the provisions of the Uniform Administrative Procedures Act shall govern.

(b) Any Cigarettes that have been sold, offered for sale, or possessed for sale, in this state, or imported for personal consumption in this state, in violation of subsection 3(c) shall be deemed contraband under T.C.A. § 67-4-1020 and such Cigarettes shall be subject to seizure and forfeiture as provided in such section, and all such Cigarettes so seized and forfeited shall be destroyed and not resold.

(c) The Attorney General, on behalf of the Commissioner, may seek an injunction to restrain a threatened or actual violation of subsection 3(c), 5(a) or 5(d) by a Licensed Agent and to compel the Licensed Agent to comply with such subsections. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action and reasonable attorney fees.

(d) It shall be unlawful for a person to: (i) sell or distribute Cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of subsection (3)(c), or (ii) acquire, hold, own, possess, transport, import, or cause to be imported Cigarettes, that the person knows or should know are intended for distribution or sale in the state in violation of subsection 3(c). A violation of this section shall be a class B misdemeanor;

SECTION 7. (a) If the Commissioner elects not to include a Brand Family or Tobacco Product Manufacturer on the Directory or if the Commissioner removes a Brand Family or Tobacco Product Manufacturer from the Directory, that action is subject to review in the manner provided by T.C.A. § 67-1-105 and in accordance with the provisions of the Uniform Administrative Procedures Act, T.C.A. § 45-101 et seq. In the event of a conflict between the provisions of T.C.A. § 67-1-105 and the Uniform Administrative Procedures Act, the Uniform Administrative Procedures Act shall govern.

(b) No person shall be issued a license or granted a renewal of a license to act as a Licensed Agent unless such person has certified in writing, under penalty of perjury, that such person will comply fully with this act.

(c) For the year 2003, if the effective date of this Act is later than March 16, 2003, the first report of Licensed Agents required by subsection 5(a) shall be due 30 calendar days after such effective date; the certifications by a Tobacco Product Manufacturer described in subsection 3(a) shall be due 45 calendar days after such

effective date; and the Directory described in subsection 3(b) shall be published or made available within 90 calendar days after such effective date.

(d) The Commissioner may promulgate regulations necessary to effect the purposes of this Act.

(e) In any action brought by the state to enforce this Act, the state shall be entitled to recover the costs of investigation, expert witness fees, costs of the action and reasonable attorney fees.

(f) If a court determines that a person has violated this Act, the court shall order and enjoin any profits, gain, gross receipts or other benefit from the violation to be disgorged and paid to the state treasurer for deposit in the state's general fund. Unless otherwise expressly provided the remedies or penalties provided by this Act are cumulative to each other and to the remedies or penalties available under all other laws of this state.

(g) If a court of competent jurisdiction finds that the provisions of this Act and of T.C.A. § 47-31-101 et seq. conflict and cannot be harmonized, then such provisions of T.C.A. § 47-31-101 et seq. shall control. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Act causes the T.C.A. § 47-31-101 et seq. to no longer constitute a Qualifying or Model Statute, as those terms are defined in the Master Settlement Agreement, then that portion of this Act shall not be valid. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Act is for any reason held to be invalid, unlawful or unconstitutional, such decision shall not affect the validity of the remaining portions of this Act or any part thereof.

SECTION 8. This act shall take effect upon becoming law, the public welfare requiring it.

On motion, the amendment was adopted.

Senator Clabough moved that Amendment No. 2 be withdrawn, which motion prevailed.

Senator Clabough moved that **House Bill No. 1772**, as amended, be placed on calendar for Wednesday, May 21, 2003, which motion prevailed.

Senate Bill No. 1857 -- Equalization Board -- Authorizes board to impose fee, by rule, for processing applications for property tax exemption. Amends Tennessee Code Annotated, Title 67, Chapter 5.

On motion, Senate Bill No. 1857 was made to conform with **House Bill No. 1893**.

On motion, House Bill No. 1893, on same subject, was substituted for Senate Bill No. 1857.

Senator Henry moved that Amendment No. 1 be withdrawn, which motion prevailed.

Senator Henry moved to amend as follows:

AMENDMENT NO. 2

AMEND by adding the following at the end of the amendatory language in Section 1, as amended:

The total fees collected in any fiscal year shall not exceed the cost of processing exemption applications in that fiscal year.

On motion, the amendment was adopted.

Thereupon, **House Bill No. 1893**, as amended, passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

**RULE 61
STATEMENT BY SENATOR HENRY**

STATE BOARD OF EQUALIZATION LETTER

April 7, 2003

Mr. Sean P. Scally
Office of University Counsel
Vanderbilt University
2100 West End Ave., Ste. 750
Nashville, TN 37203

Re: SB 1857 - HB 1893 (Exemption application fee)

Dear Sean:

We discussed two aspects of this legislation by phone today that I would like to address further in writing.

First, with regard to graduating the fee according to value, as addressed by a pending amendment of the bill, the amendment merely requires the fee to be proportionate to value, and we would not anticipate the fee would be *measured* by value. Rather, applications for property falling within a specified range of value would be pegged to a fee smaller than those representing larger properties. It has been our experience that the value of property (within broad ranges) is a reasonable measure of the complexity of an application. The Attorney General must ultimately approve the rules implementing the fee so I am sure we will go no further with this approach than is legally permissible.

Second, by way of improving the turnaround time for these applications and avoiding the possibility that a city or county will file suit or take other measures to collect delinquent taxes while an application is pending, I believe the turnaround time generally has been improved recently by reassignments of staff to the exemptions area. If we can offer no better assurances by the time the fee rules come before the Board, we will expect the Board to address this issue as part of the rules. Additionally, exemption applications are now to be considered property tax appeals for purposes of abating delinquent tax collections (Public Chapter 938 of 2000), and we have already been significantly involved in bringing these provisions to the attention of local collecting officials. We will certainly do the same where your applications are involved. I hope these comments are responsive to your concerns.

Sincerely,

/s/ Kelsi Jones
Executive Secretary

cc: Senator Douglas Henry

CALENDAR

Senator Williams moved that **Senate Bill No. 1913** be placed on calendar for Monday, May 19, 2003, which motion prevailed.

Senate Bill No. 1929 -- Insurance Companies, Agents, Brokers, Policies -- Allows Commissioner of Commerce and Insurance to allow or require filing of documents with commissioner through designated filing depository; creates fee for additional rate filings; makes other various revisions to insurance provisions. Amends TCA Title 56.

On motion, Senate Bill No. 1929 was made to conform with **House Bill No. 2056**.

On motion, House Bill No. 2056, on same subject, was substituted for Senate Bill No. 1929.

Senator Clabough moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting the phrase "or require" from Section 1.

AND FURTHER AMEND in the second sentence of Section 3 by adding the words "for a single type of insurance coverage" after the word "year".

AND FURTHER AMEND by adding the following language to the end of the amendatory language of Section 3:

The foregoing fee and cost requirements shall not apply to advisory prospective loss cost filings by the commissioner's designated rate service organization.

AND FURTHER AMEND by adding the following language to the end of Section 7:

Failure to comply with this section shall subject a company to the sanctions provided in Section 56-1-502.

On motion, the amendment was adopted.

Senator Henry moved that Amendment No. 2 be withdrawn, which motion prevailed.

Senator Trail moved that the Senate reconsider its action in adopting Amendment No. 1 to **House Bill No. 2056**, which motion prevailed.

Senator Clabough moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 2056** passed its third and final consideration by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Southerland, Trail and Williams--29.

A motion to reconsider was tabled.

Senator Crutchfield moved that **Senate Bill No. 1981** be placed on calendar for Monday, May 19, 2003, which motion prevailed.

House Bill No. 1116 -- Optometry -- Prohibits undue influence of optometrists by manufacturers, wholesalers, and retailers of ophthalmic materials. Amends TCA Title 63, Chapter 8, as amended.

Senator Ramsey moved that Amendment No. 4 be placed behind Amendment No. 6, which motion prevailed.

Senator Henry moved to amend as follows:

AMENDMENT NO. 6

AMEND, as amended, by deleting subdivision (b)(1) of Section 2, and by substituting therefor the following:

(1) Setting or attempting to set the professional fees of an optometrist or the number of patients to be seen by an optometrist;

AND FURTHER AMEND by deleting the words "a waiting room and" in subdivision (c)(2) of Section 2.

Senator Kyle called for the Division of the Question on Amendment No. 6, which is as follows:

DIVISION NO. 1

AMEND, as amended, by deleting subdivision (b)(1) of Section 2, and by substituting therefor the following:

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(1) Setting or attempting to set the professional fees of an optometrist or the number of patients to be seen by an optometrist;

Senator Jackson moved that Division No. 1 to Amendment No. 6 go to the table, which motion prevailed by the following vote:

Ayes	22
Noes	9

Senators voting aye were: Beavers, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Graves, Harper, Haynes, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, Miller, Southerland, Trail and Mr. Speaker Wilder--22.

Senators voting no were: Atchley, Bryson, Burchett, Fowler, Henry, McNally, Norris, Person and Ramsey--9.

DIVISION NO. 2

AND FURTHER AMEND by deleting the words "a waiting room and" in subdivision (c)(2) of Section 2.

Senator Jackson moved that Division No. 2 to Amendment No. 6 go to the table, which motion failed by the following vote:

Ayes	16
Noes	16

Senators voting aye were: Beavers, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Harper, Haynes, Herron, Jackson, Kurita, McLeary, Miller, Southerland and Mr. Speaker Wilder--16.

Senators voting no were: Atchley, Bryson, Burchett, Ford, Fowler, Graves, Henry, Ketron, Kilby, Kyle, McNally, Norris, Person, Ramsey, Trail and Williams--16.

Senator Clabough moved for the previous question on Division No. 2 to Amendment No. 6, which motion prevailed by the following vote:

Ayes	26
Noes	5
Present, not voting . . .	1

Senators voting aye were: Beavers, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--26.

Senators voting no were: Atchley, Bryson, Burchett, Miller and Person--5.

Senator present and not voting was: Henry--1.

Senator Henry moved that Division No. 2 to Amendment No. 6 be adopted, which motion prevailed by the following vote:

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Ayes 18
Noes 13
Present, not voting . . . 1

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Clabough, Cohen, Ford, Fowler, Graves, Henry, Ketron, Kilby, Kyle, McNally, Norris, Person, Ramsey and Williams--18.

Senators voting no were: Burks, Crowe, Crutchfield, Dixon, Harper, Haynes, Herron, Jackson, Kurita, McLeary, Miller, Southerland and Mr. Speaker Wilder--13.

Senator present and not voting was: Trail--1.

Senator Ramsey moved that Amendment No. 4 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1116**, as amended, passed its third and final consideration by the following vote:

Ayes 26
Noes 5
Present, not voting . . . 1

Senators voting aye were: Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Herron, Jackson, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--26.

Senators voting no were: Atchley, Beavers, Bryson, Burchett and Ketron--5.

Senator present and not voting was: Henry--1.

A motion to reconsider was tabled.

Senator Fowler moved that **House Bill No. 843** be placed on the calendar for Monday, May 19, 2003, which motion prevailed.

Senator Haynes moved that **Senate Bill No. 61**, as amended, be placed on the calendar for Monday, May 19, 2003, which motion prevailed.

NOTICE

Pursuant to Rule 44, notice was given that the following bill was returned from the House of Representatives amended. Under the rule, the bill lies over.

MESSAGE FROM THE HOUSE

May 15, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 434, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MOTION

Senator McLeary moved that the rules be suspended for the immediate consideration of **Senate Bill No. 434**, out of order, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 434 -- Pensions and Retirement Benefits -- Allows retired teachers to accept full-time employment as elected city officials without loss or suspension of retirement benefits; such retired teacher may not receive additional benefits for employment as city official. Amends TCA Title 8, Chapter 36, Part 8.

HOUSE AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 8, Chapter 36, Part 8 is amended by adding the following as a new appropriately designated section:

8-36-8_. Notwithstanding any provision of law to the contrary, any teacher who has been retired for at least two (2) years may accept employment as a full-time elected city official without loss or suspension of retirement benefits; provided, that such retiree shall not be eligible to accrue additional retirement benefits as a result of such employment.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

Senator McLeary moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 434**, which motion prevailed by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--30.

A motion to reconsider was tabled.

HOUSE AMENDMENT NO. 2

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. The provisions of this act shall have no effect unless funds are appropriated in the 2003-2004 General Appropriations Act to fund the estimated first year's cost of any positions, or any other associated costs, authorized by this act.

Senator McLeary moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 434**, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Person, Ramsey, Southerland, Trail and Williams--29.

A motion to reconsider was tabled.

MOTION

Senator Atchley moved that the rules be suspended for the immediate consideration of **House Joint Resolution No. 564**, out of order, which motion prevailed.

RESOLUTION LYING OVER

House Joint Resolution No. 564 -- Memorials, Professional Achievement -- Reverend J. Bazzel Mull, Southern Gospel Music Association Hall of Fame.

On motion of Senator Atchley, the rules were suspended for the immediate consideration of the resolution.

On motion, **House Joint Resolution No. 564** was concurred in.

A motion to reconsider was tabled.

SENATE MESSAGE CALENDAR

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 1288 -- Education, Higher -- Provides procedure for group purchases by institutions of higher education. Amends TCA Title 49, Chapter 7.

HOUSE AMENDMENT NO. 2

AMEND by adding the following new subsection to the amendatory Section 49-7-124 in Section 1 of the bill:

(____) Any institutions of higher education that have entered group purchasing arrangements under Tennessee Code Annotated, Title 68, Chapter 11, Part 12, shall not be precluded from continuing such arrangements.

Senator McNally moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 1288**, which motion prevailed by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron,

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Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--31.

A motion to reconsider was tabled.

MOTION

Senator Person moved that Rule 83(8) be suspended for the purpose of placing **Senate Bills Nos. 345, 49, and 1712** on the calendar for the Committee on Judiciary for Tuesday, May 20, 2003, which motion prevailed.

MOTION

Senator Beavers moved that the rules be suspended for the immediate consideration of **Senate Joint Resolution No. 450**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 450 -- Memorials, Public Service -- Jimmy Philpott.

On motion of Senator Beavers, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 450** was adopted.

A motion to reconsider was tabled.

MOTION

Senator Henry moved that Rule 83(8) be suspended for the purpose of placing **Senate Bills Nos. 397 and 2021** on the calendar for the Committee on Finance, Ways and Means for Tuesday, May 20, 2003, which motion prevailed.

MOTION

Senator Henry moved that the rules be suspended for the immediate consideration of **Senate Joint Resolution No. 451**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 451 -- Memorials, Recognition -- Archbishop Demetrios.

On motion of Senator Henry, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 451** was adopted.

A motion to reconsider was tabled.

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MOTION

Senator Crutchfield moved that the Proposed Schedule for the week of May 19, 2003, be adopted and made the action of the Senate, which motion prevailed by the following vote:

Ayes 27
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--27.

**TENNESSEE STATE SENATE
103rd GENERAL ASSEMBLY**

**PROPOSED SCHEDULE
FOR THE WEEK OF MAY 19, 2003**

MONDAY – MAY 19

5:00 p.m. Session – Senate Chamber

TUESDAY – MAY 20

8:30 a.m. – 12:30 p.m.	Finance, Ways & Means Committee
12:30 p.m. – 1:30 p.m.	Lunch
1:30 p.m. – 3:30 p.m.	Finance, Ways & Means Committee
3:30 p.m. – 5:30 p.m.	Judiciary Committee

WEDNESDAY – MAY 21

8:30 a.m. – 9:30 a.m.	Education Committee
9:30 a.m. – 11:30 a.m.	Finance, Ways & Means Committee
11:30 a.m. – 12:00 noon	Lunch
12:00 noon – 1:00 p.m.	Transportation Committee
1:00 p.m. – 2:30 p.m.	Government Operations Committee
3:00 p.m.	Session – Senate Chamber

THURSDAY – MAY 22

9:00 a.m. Session – Senate Chamber

FRIDAY – MAY 23

9:00 a.m. Session – Senate Chamber

OTHER MEETINGS:

Monday, May 19, 2003 – Conference Committee on the Lottery
2:30 p.m. – Conference Room 1 LP

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Monday, May 19, 2003 – Oversight Committee on TennCare
3:00 - 4:30 p.m. – Room 12/14 LP

Monday, May 19, 2003 – Select Committee on Children and Youth
3:00 p.m. – Room 31 LP

NOTE: The following committees have finished and will meet again only at the call of the chair:
Commerce, Labor & Agriculture Committee
Environment, Conservation & Tourism Committee
General Welfare, Health & Human Resources Committee
State & Local Government Committee

MOTION

On motion of Senator Henry, his name was added as sponsor of **Senate Joint Resolution No. 436.**

On motion of Senator Kilby, his name was added as sponsor of **House Joint Resolutions Nos. 554, 555, 556, 557, 558 and 559; and Senate Bill No. 1595.**

On motion of Senator McNally, his name was added as sponsor of **House Joint Resolutions Nos. 551 and 553; and Senate Joint Resolution No. 436.**

On motion of Senator Trail, his name was added as sponsor of **House Joint Resolution No. 546.**

On motion of Senator Norris, his name was added as sponsor of **Senate Bill No. 1272.**

On motion of Senator Dixon, his name was added as sponsor of **House Joint Resolution No. 547.**

On motion of Senator Fowler, his name was added as sponsor of **Senate Resolution No. 86; and Senate Bills Nos. 38, 1197 and 1372.**

On motion of Senators Crowe and Ramsey, their names were added as sponsors of **House Joint Resolutions Nos. 549, 550 and 551; and Senate Bill No. 436.**

On motion of Senator Williams, his name was added as sponsor of **House Joint Resolutions Nos. 554, 555, 556, 557, 558 and 559; and Senate Bill No. 1288.**

On motion of Senators Trail, Graves, Kurita, Bryson and Harper, their names were added as sponsors of **Senate Bill No. 626.**

On motion of Senator McLeary, his name was added as sponsor of **Senate Bill No. 733.**

On motion of Mr. Speaker Wilder, his name was added as sponsor of **Senate Bill No. 885.**

On motion, all Senators' names were added as sponsors of **House Joint Resolution No. 564.**

ENGROSSED BILLS

May 15, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolution No. 448, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 15, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bills Nos. 38, 63, 263, 626, 1372, 1647 and 1742; and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 15, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolution No. 450, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 15, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolutions Nos. 433, 434, 435 and 436; and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 15, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolution No. 451, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

May 15, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 64, substituted for House Bill on same subject and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 15, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 301, 863, 1207, 1279, 1817 and 1854; substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 15, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 396, 664, 878 and 918; substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 15, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 1772, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 15, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 2110, 2111, 2115 and 2116; passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 15, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 1058 and 1986, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 15, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 2073, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 15, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 362, 368, 369, 370, 371, 372, 374, 375, 377, 405, 406, 407 and 409; concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 15, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 392, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431 and 448; concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 15, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolution No. 189, adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 15, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolution No. 564, adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 15, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 571, 573, 574, 575, 576, 577, 578 and 579; adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

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MESSAGE FROM THE HOUSE

May 15, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 560, 561, 562, 563, 565, 566, 567, 568, 569 and 570; adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

ENROLLED BILLS

May 15, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Resolutions Nos. 72, 80, 81, 82, 83, 84 and 88; and find same correctly enrolled and ready for the signature of the Speaker.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENROLLED BILLS

May 16, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Resolutions Nos. 85 and 86; and Senate Joint Resolutions Nos. 362, 368, 369, 370, 371, 372, 374, 375, 377, 392, 405, 406, 407, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431 and 448; and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

May 15, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 540, 541, 544, 545, 546, 547, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559 and 564; for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

SIGNED

May 15, 2003

The Speaker announced that he had signed the following: Senate Resolutions Nos. 72, 80, 81, 82, 83, 84 and 88; and House Joint Resolutions Nos. 540, 541, 544, 545, 546, 547, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559 and 564.

SIGNED

May 16, 2003

The Speaker announced that he had signed the following: Senate Resolutions Nos. 85 and 86; and Senate Joint Resolutions Nos. 362, 368, 369, 370, 371, 372, 374, 375, 377, 392, 405, 406,

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407, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431 and 448.

MESSAGE FROM THE HOUSE

May 16, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 362, 368, 369, 370, 371, 372, 374, 375, 377, 392, 405, 406, 407, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431 and 448; signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE GOVERNOR

May 15, 2003

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Bills Nos. 3, 946, 1029, 1476, 1597 and 1958; and Senate Joint Resolutions Nos. 210, 211, 212, 320, 322, 323, 324, 325, 326, 327, 328, 329, 330, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 356, 358, 359, 360, 361, 378, 379, 380, 381, 382, 383, 385, 386, 387, 388, 389, 390, 391, 393, 394, 395, 396, 397, 398 and 408; with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

MESSAGE FROM THE GOVERNOR

May 16, 2003

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Bill No. 1890, with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

**REPORT OF COMMITTEE ON CALENDAR
CONSENT CALENDAR #1**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Monday, May 19, 2003: Senate Joint Resolutions Nos. 438, 439, 440, 441, 442, 443, 444, 445, 446, 447 and 449; and Senate Resolutions Nos. 87 and 89.

This the 15th day of May, 2003.
CROWE, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR
CONSENT CALENDAR #2**

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Monday, May 19, 2003: Senate Resolution No. 71; House

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Joint Resolutions Nos. 32 and 425; Senate Joint Resolutions Nos. 259, 260 and 321; and Senate Bills Nos. 226, 683, 701, 1092, 1640 and 1998.

This the 15th day of May, 2003.
CROWE, Chairperson.

REPORT OF COMMITTEE ON CALENDAR

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Monday, May 19, 2003: Senate Bills Nos. 337, 350, 433, 610, 634, 907, 1008, 1198, 1282, 1344, 1527, 1648, 1665, 1728, 1848, 1858 and 1913; House Bills Nos. 843 and 1030; and Senate Bills Nos. 61, 83, 422, 642, 810, 1583 and 1981.

This the 15th day of May, 2003.
CROWE, Chairperson.

**REPORT OF COMMITTEE ON CALENDAR
LOCAL BILL
CONSENT CALENDAR**

Pursuant to Rule 26, the following bills have been set on the Consent Calendar for Monday, May 19, 2003: Senate Bills Nos. 2025 and 2027.

ADJOURNMENT

Senator Crutchfield moved the Senate adjourn until 5:00 p.m., Monday, May 19, 2003, which motion prevailed.